IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff

V

Chemical Recovery Systems

et al.

Defendants

AFFIDAVIT

County of Cook:
State of Illinois: SS

I, Eugene Meyer, first being duly sworn, depose and say as follows:

1. I am employed by the United States Environmental Protection Agency (U.S. EPA) as a chemist and have been so employed since May 14, 1979.
2. For the fourteen years preceeding my employment with U.S. EPA I was a professor of chemistry at Lewis University, Lockport, Illinois.
3. I have an earned Ph.D. degree in nuclear chemistry. I also completed one year of postgraduate research at the Institute of Nuclear Physics, Amsterdam, The Netherlands.
4. I have published six articles in the subject areas of nuclear physics and physical chemistry, and two books, one entitled The Chemistry of Hazardous Materials, (1977) the other entitled Introduction to Modern Chemistry, (1979).
5. My duties with U.S. EPA include visiting sites where chemical materials are generated, processed, stored or disposed so as to determine whether the operations are being carried on in an environmentally safe manner, including a determination as to whether there exists any hazard to the ambient air, groundwater, drinking water or the public health and safety. My duties also include supervising the taking of air, water and soil samples, as well as samples of chemical substances from drums, tanks, and impoundment ponds.

6. On February 5, 1980, I visited the Chemical Recovery Systems site at Elyria, Ohio, with other U.S. EPA personnel: Frank Biros, Dan Watson, Melanie Toepfer, and Leon Acierto.

7. While there, I spoke to James Freeman, the president of Chemical Recovery Systems (CRS), and observed the two buildings that housed the distillers, as well as the condition of the site regarding storage of hazardous waste.

8. On the property itself are stored several thousands drums containing chemical wastes. Mr. Freeman indicated to me that the majority are flammable solvents and paint sludges He also indicated that roughly one-third of the drums on the site either were empty or contained a residue (after distillation), rather than spent solvents awaiting processing, as the other two-thirds of the drums contained. The drums containing spent solvents are arranged relatively neatly in stacks of 50-70 per area. Only two or three teetering drums were observed. The drums were generally stacked three high. While I observed two leaking drums from those containing spent solvents, there was evidence of spillage of waste chemicals, at random locations on the soil. The condition and arrangement of the drums of spent solvents generally on this occasion were neat.

9. Along the river bank there were three or four drums immediately adjacent to the river. Attempts to sample their contents were not possible because they were so close to the river's edge. However, these drums were heavy, and clearly not empty.

10. The arrangement of the property permits access of firetrucks from two different locations.

11. When asked, Freeman indicated that the inventory upon the site at the time was smaller than usual, but that he was trying to limit the number of drums on the site. Under even the best conditions, a larger inventory would compound the hazards of the site.

12. Freeman indicated that the labels on the drums did not necessarily identify the present contents of the drums, but were left over from earlier uses of the same drums.

13. Mr. Freeman told us that he was having a hard time finding someone to take the paint and solvent sludge wastes from this site. In my own experience, many landfill and incinerator operators will not accept such materials.

14. I also observed an area where chemical wastes from the plant were leaching from the soil into the river. The area was about two yards in radius. An attempt had been made to absorb the waste with absorption pads. The sharp incline of the ground in that area made sampling difficult.

15. There was evidence of periodic spillage of chemical wastes on the soil from which we took samples.

16. In the distillation buildings, odors of organic chemicals are particularly prominent. The operation of each of the distillation assemblies is primitive at best. Roofs and walls have a large number of holes, through which rain enters and the organic vapors escape to the atmosphere. In addition, liquid solvents have been spilled onto the floor in numerous places. Overall, the operation was not properly carried out, by the standard commonly observed in the chemical processing industry.

17. One of the managerial personnel to whom we spoke indicated that the Brighten still was being used to distill methy ethyl ketone (MEK). This chemical has a flashpoint of only 22 degrees Fahrenheit, so that any ignition source (for instance, a spark from an electrical switch or a motor, or a carelessly-used match or cigarette) could cause combustion.

18. The site had about 10 storage tanks, each of about 15,000 gallons capacity, containing solvents intended for reclamation, of which only one tank was diked and grounded as required by the National Fire Prevention Association guidelines. The tanks were also not labelled as to contents, which could cause serious problems in event of a fire, since firefighting techniques vary with the chemical properties of substances, and a technique which would be appropriate for one could be extremely dangerous with another.

19. The site was fenced on two sides and access from the river side would be difficult even though there was no fence there, because of the steepness of the bank. [Access, though difficult, is still possible.] Anything less than complete security from public access could be quite hazardous for this site, since careless use of smoking materials could set off widespread combustion or explosion.

20. In my judgment, the operation of Chemical Recovery Systems at the Elyria site may pose a significant danger to the health and safety of persons exposed to soil, air and water in the area, for the following reasons:

    (a) The ooze of chemical waste into the river;

    (b) The high concentration of organic vapor from the stills;

    (c) The presence of sludge material in drums near the river bank;

    (d) The frequent spillage of solvents.

Further affiant sayeth not.

Respectfully submitted,

Eugene Meyer

Eugene Meyer

Subscribed and sworn to before me
the 23rd day of July, 1980

Eileen P Bloom

Notary Public